

Message Text

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PAGE 01 STATE 065404

44

ORIGIN L-03

INFO OCT-01 EUR-25 IO-12 ADP-00 SSO-00 NSCE-00 USIE-00

INRE-00 CIAE-00 DODE-00 PM-09 H-02 INR-10 NSAE-00

NSC-10 PA-03 RSC-01 PRS-01 SS-15 GAC-01 ACDA-19

NASA-04 SCI-06 /122 R

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O R 092020 Z APR 73

FM SECSTATE WASHDC

TO USMISSION USUN NEW YORK IMMEDIATE

INFO AMEMBASSY MOSCOW

C O N F I D E N T I A L STATE 065404

E. O. 11652: GDS

TAGS: TSPA, PFOR, UN, UR

SUBJECT: OUTER SPACE LEGAL: SCOPE OF TREATY ON CELESTIAL
BODIES (TCB)

REF: (A) USUN 1132; (B) USUN 1252

1. DEPT IS NOT PREPARED ACCEPT DELETION FROM TCB OPERATIVE
PARAS OF REFERENCES TO CELESTIAL BODIES OTHER THAN MOON.
WE HAVE MADE IT CLEAR TO SOVS THAT WE COULD NOT NEGOTIATE
AGREEMENT OF THIS SORT EXCEPT ON BASIS OF APPROPRIATELY
FORMULATED COMPREHENSIVE COVERAGE OF ALL CELESTIAL BODIES
WITHIN PRACTICAL REACH FOR EXPLORATION AND USE. WE THUS DO
NOT AGREE TO FREELAND (UK) " COMPROMISE" SOLUTION (REF A)
WHICH, THOUGH PERHAPS ACHIEVING OUR OBJECTIVES FROM TECHNICAL
LEGAL POINT OF VIEW, STILL LEAVES POLITICAL IMPLICATION
THAT COVERAGE OF CELESTIAL BODIES OTHER THAN MOON IS SECON-
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PAGE 02 STATE 065404

DARY AND OTHER CB' S ARE NOT EQUALLY IMPORTANT SUBJECT OF TREATY.

2. DELETION OF REFERENCE TO OTHER CELESTIAL BODIES IN OPERATIVE PARAS LEAVES SOVS OPEN TO ARGUE IN FUTURE THAT OPERATIVE PROVISIONS CLEARLY DRAFTED WITH MOON PRIMARILY IN MIND AND APPLICATION TO OTHER CB' S WAS INTENDED TO BE PROVISIONAL VIA FREELAND FORMULA. IF SOVS CAN IN FACT ACCEPT OUR POSITION THAT THIS TREATY IS TO BE, IF NOT ONLY INSTRUMENT, AT LEAST BASIC INSTRUMENT (APART FROM OST) COVERING ALL CELESTIAL BODIES IN SOLAR SYSTEM EXCEPT EARTH, THEN WE FAIL TO SEE WHY THERE SHOULD BE ANY DIFFICULTY IN THEIR ACCEPTING LANGUAGE IN OPERATIVE PROVISIONS RELECTING THIS COVERAGE.

3. WE DO NOT BELIEVE THIS CAN LEGITIMATELY INVOLVE ANY QUESTION OF FACE- SAVING. FACT THAT SOVIET INITIATIVE ON THE MOON WILL BE BROADENED TO INCLUDE OTHER CB' S IN SOLAR SYSTEM DOES NOT DETRACT FROM VALUE OF THAT INITIATIVE BUT ENHANCES IT. MOREOVER, WE DO NOT SEE HOW CLEAR STATEMENT OF SCOPE OF APPLICATION OF RESPECTIVE OPERATIVE PROVISIONS WOULD ADD TO ANY DIFFICULTIES SOVS MIGHT ALREADY HAVE IN THIS RESPECT AS RESULT OF THEIR " UNDERSTANDING" RE REFERENCES TO CB' S IN TITLE AND PREAMBLE (COMMENT IN PARA 2 REF B). IN SHORT, UNLIKE QUESTION OF PRE- LAUNCH NOTIFICATION, THIS SEEMS TO BE ISSUE ON WHICH SOVS HAVE NO DEMONSTRABLE OR EVEN LOGICAL REASON FOR REFUSING TO GO ALONG WITH OUR APPROACH, WHICH WOULD SIMPLY CLARIFY WHAT WE TAKE TO BE THE AGREED UNDERSTANDING ON THE SCOPE OF THIS TREATY.

4. ON OTHER HAND, WE BELIEVE SOME IDEAS IN FREELAND FORMULA ARE ACCEPTABLE, AND THAT, WITH MINOR DRAFTING CHANGES AND RETENTION OF REFERENCES TO OTHER CB' S IN OPERATIVE PARAS, WE COULD GO ALONG WITH FREELAND LANGUAGE. UNDER THIS APPROACH, WE WOULD NOT INSIST UPON EXPLICIT REFERENCE TO " PLANETS" IN OPERATIVE PARAS (AS IN US INFORMAL SCOPE PROPOSAL) BUT WOULD MAKE IT CLEAR VIA FREELAND FORMULA THAT REFERENCE IN OPERATIVE PARAS TO " MOON AND OTHER CELESTIAL BODIES" INCLUDES ALL PLANETS AND OTHER CB' S WITHIN SOLAR SYSTEM. WE WOULD ALSO ACCEPT FUTURE CONFERENCE PROVISIONS REDRAFTED TO ELIMINATE " RECOGNITION" OF POSSIBLE NEED FOR FURTHER ARRANGEMENTS AND INCORPORATE DELEGATION' S SUGGESTION (PARA 2 REF B)

CONFIDENTIAL

CONFIDENTIAL

PAGE 03 STATE 065404

OF REPLACING " SEPARATE" WITH " ADDITIONAL".

5. NEW LANGUAGE WOULD THEN READ AS FOLLOWS: BEGIN QUOTE

REFERENCES IN THIS TREATY TO " OTHER CELESTIAL BODIES"
SHALL BE DEEMED TO APPLY TO THE PLANETS AND OTHER CELES-
TIAL BODIES WITHIN THE SOLAR SYSTEM, EXCEPT THE EARTH, AS
WELL AS TO ORBITS AND OTHER TRANSIT TRAJECTORIES TO OR
AROUND THOSE BODIES. THE STATES PARTIES TO THE TREATY
AGREE THAT SHOULD IT BECOME DESIRABLE AT SOME LATER STAGE
TO ELABORATE ADDITIONAL ARRANGEMENTS IN REGARD TO THE
EXPLORATION AND USE OF INDIVIDUAL PLANETS OR OTHER
CELESTIAL BODIES WITHIN THE SOLAR SYSTEM, A CONFERENCE
OF STATES PARTIES SHALL BE CONVENED FOR THAT PURPOSE BY
THE DEPOSITARY GOVERNMENTS WHEN ONE THIRD OF THE STATES
PARTIES SO REQUEST. END QUOTE.

6. DELEGATION SHOULD CONTINUE TO WITHHOLD FALLBACK
ON PRE- LAUNCH NOTIFICATION PROVISIONS FOR TIME BEING,
AT LEAST PENDING SATISFACTORY RESOLUTION OF NATURAL
RESOURCES ISSUE. ROGERS

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*** Current Classification *** CONFIDENTIAL

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